

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to Execute First Amendment to Baseball Stadium Lease Agreement between the City of Lowell and Main Street Massachusetts , LLC d/b/a The Lowell Spinners, relative to use of the Edward A. LeLacheur Park in the City of Lowell for use by the "Lowell Spinners".

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The City, the Civic Stadium Commission ("Commission") and Main Street Massachusetts , LLC d/b/a The Lowell Spinners entered into a Lease Agreement dated June 21, 2017; and

The Parties agree to modify various sections of the original lease; and

The Commission has approved and recommends approval by the City Council of the First Amendment to Baseball Stadium Lease of the Edward A. LeLacheur Park by Main Street Massachusetts, LLC d/b/a the Lowell Spinners under the terms and conditions contained in said Amendment.

BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Council, in accordance with Chapter 325, section 4 hereby approves the First Amendment to Baseball Stadium Lease Agreement between the Lowell Civic Stadium Commission, acting on behalf of the City of Lowell and Main Street Massachusetts, LLC, d/b/a the Lowell Spinners, relative to use of the Edward A. LeLacheur Park by the "Lowell Spinners". Said First Amendment to Baseball Stadium Lease Agreement shall be attached hereto and marked "A".

BE IT FURTHER VOTED:

That the City Manager be and she is hereby authorized to execute any and all documents that may be required in connection with said amendment.

## FIRST AMENDMENT TO BASEBALL STADIUM LEASE AGREEMENT

This FIRST AMENDMENT TO THE BASEBALL STADIUM LEASE AGREEMENT is made and entered into by and between the City of Lowell, Massachusetts ("City") and Main Street Massachusetts, LLC, d/b/a the Lowell Spinners, a Massachusetts limited liability company (the "Team"), as of this 10<sup>th</sup> day of May, 2019, and amends a certain Baseball Stadium Lease Agreement dated June 21, 2017 (hereinafter known as the "Original Lease").

**WHEREAS**, the City owns the baseball stadium known as Edward A. LeLacheur Park (the "Ballpark") located at 450 Aiken Street, Lowell, Massachusetts 01854;

**WHEREAS**, the City acknowledges that the Team is not in default, has made all payments, met all obligations, and is in good standing under the terms and conditions of the Lease as of the date of this First Amendment;

**WHEREAS**, the City and the Team desire to clarify Section Two ("Term") of the Original Lease;

**WHEREAS**, the City and the Team desire to memorialize its agreement on the matters contained within this First Amendment.

**NOW, THEREFORE**, in consideration of the mutual obligations expressed herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Original Lease as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated in this Amendment by reference.
2. Defined Terms. All capitalized terms not otherwise defined in this Amendment shall have the meaning set forth in the Original Lease.
3. Priority of Terms and Conditions. In the event of any conflict between the Original Lease and this First Amendment, the terms and provisions of this First Amendment shall prevail.
4. Amendments to Lease.

A. Section 2 of the Original Lease is hereby modified to read as follows:

**TERM**. The Term of this Lease shall have commenced on July 23, 2017, and shall expire, unless sooner terminated or extended, at 11:59 p.m. on December 31, 2027 ("Termination Date"). There shall be two options to extend this Agreement, each for an additional five-year period ("Extension Period"), the first

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of which, if exercised, would commence January 1, 2028. The Rent shall not increase during any Extension Period if the Team made during the original Term of this Agreement an investment in the ballpark's Structural Elements in excess of \$1 Million Dollars. If said investment is reached during the first Extension Period, then the rent shall not increase during the second Extension Period. If said investment is not made by the Team, then the rent shall increase at the rate of the Consumer Price Index on date of commencement of the Extension Period.

B. Section 3 of the Original Lease is hereby modified to read as follows:

**RENT.** During the Term and subject to the terms and conditions of this Agreement, the Team shall make payments each year to the Ballpark Capital Fund as consideration for the license granted by the City to the Team in Section 4 (the "Team Lease Payment"). The Team Lease Payment during the Term shall be One Hundred Ninety-Two Thousand Dollars and No Cents (\$192,000.00) per year. The final year's payment, excluding any Extension Period, shall be prorated at a rate of five hundred twenty-six dollars and three cents (\$526.03) per day from July 23, 2027 to December 31, 2027, or a total of eighty-five thousand two hundred sixteen dollars and eighty-six cents (\$85,216.86). Each such annual Team Lease Payment shall be paid in three equal installments, with the first installment due on July 31, the second installment due on August 31, and the third installment due on September 30 of each year. Five percent (5%) annual interest may be charged by the City on all payments not received within thirty (30) days of Team's receipt of an invoice reflecting the initial due date.

The City acknowledges that the Team has already paid forty-four thousand seven hundred six dollars and forty-five cents (\$44,706.45) in personal property taxes. The City hereby agrees to reduce the Team's rent for the July 31, 2019 installment by this same amount.

In addition, the Team's annual rent shall be reduced on July 1<sup>st</sup> of each year by twelve thousand dollars and no cents (\$12,000.00), in addition to an annual twelve thousand dollars and no cents (\$12,000.00) waiver of water and sewer charges owed by the Team to the City as specified hereafter in the amendment to Section 13, in order to reconcile personal property taxes now to be paid by the Team to the City as specified hereafter in the amendment to Section 19.

The City acknowledges that it will receive twenty-five thousand dollars (\$25,000) annually from the University to partially offset the Team's costs in preparing the Playing Field for University games. The City shall designate the Team as the payee of the twenty-five thousand dollars (\$25,000) annually for this purpose.

The City and the Commission warrant and represent that no other amounts are currently due and owing for the rights granted to the Team under this Lease. The

City and the Commission also warrant and represent that there are no current or ongoing disputes of any kind between the City, the Commission, or the Team.

Except as otherwise set forth herein, the financial obligations in effect during the Term of this Agreement shall survive Termination.

C. Section 19 of the Original Lease is hereby modified to read as follows:

**TAXES AND LICENSES.** Team shall pay all lawful taxes, fees, assessments, licenses, and charges on its business operations or sale of alcoholic beverages or other merchandise, as well as on all merchandise, fixtures, appliances, equipment, and property owned by it and located at the Ballpark. Notwithstanding the foregoing, the Team may avail itself of any and all abatement remedies available to it. The City shall be responsible for and shall relieve the Parties of any obligation for the payment of any and all real property taxes, possessory interest taxes, surcharges, assessments, licenses excluding the liquor license, Permit fees, and any other new or existing taxes imposed by the City (but not the State) as a result of, related to, or arising from any use of the Ballpark.

D. Section 13 of the Original Lease is hereby modified to read as follows:

**UTILITIES.** The City shall be responsible for the connections to bring water, hot water, electricity, natural gas, sewer, Internet and telecommunications, including telephone and cable TV, to the Ballpark, including the clubhouses, including any Maintenance, Improvements, Replacement, Rehabilitation and Repairs necessary to provide the aforementioned service. The City shall provide the Team with a twelve thousand dollar and no cents (\$12,000.00) annual waiver of water and sewer charges associated with the Team's use and operations. The Team shall be responsible for paying for utility services consumed at the Ballpark, including, without limitation, all electricity, heating and cooling, telephone, Internet, cable or satellite TV service, and natural gas. The City shall provide, at no cost to the Team, snowplow and snow removal outside the park, and weekly garbage pick-up and trash removal at the Ballpark.

5. **Term and Extensions.** This First Amendment shall expire with the Original Lease, unless extended in writing and signed by both parties.

City and Lessee have caused this Agreement to be signed by their authorized representatives as of the date set forth above.

**IN WITNESS WHEREOF,** the Parties hereto have caused this First Amendment to be executed in several counterparts, each of which shall constitute an original and all of which, taken together, shall constitute a single instrument, by the appropriate officials and the necessary seals to be affixed thereto on this 10<sup>th</sup> day of May, 2019.

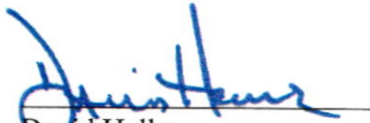
**CITY OF LOWELL, MASSACHUSETTS**

Signed and Approved by:

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Eileen Donoghue  
City Manager  
City of Lowell, MA


**MAIN STREET MASSACHUSETTS, LLC**

Signed and Approved by:


  
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David Heller  
President & CEO  
Main Street Massachusetts, LLC

**LOWELL CIVIC STADIUM COMMISSION**

Signed and Approved by:

  
\_\_\_\_\_  
Adam Baacke

  
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Patricia McCafferty

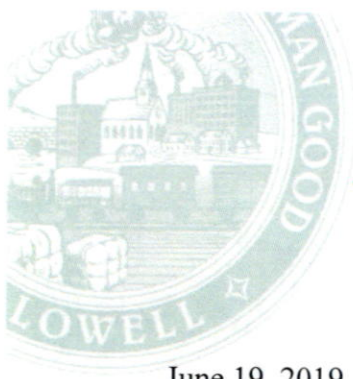
  
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Peter Casey

  
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Marjorie Miller

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Matthew C. Donohue

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Philip Shea





Eileen M. Donoghue  
City Manager

June 19, 2019

Mayor William Samaras  
And  
Members of the Lowell City Council

Dear Mayor Samaras and Members of the Lowell City Council,

Enclosed is a copy of a proposed amendment to the lease with Main Street Baseball, LLC, (d/b/a "the Lowell Spinners"), for approval by the City Council. The amendment is needed to provide for clarification regarding two elements of the original lease agreement.

The first is to align the rent with the term of the agreement, such that a pro-rated amount of the rent is provided in the final year, ending December 31, 2027. The second is to clarify language under the Taxes and Licenses clause of the underlying lease to allow the city to adhere to the spirit of the original lease. Because the city is unable to exempt any private, for-profit business from lawful state taxes, such as for personal property, the city will amend the lease to allow for a credit to the utility costs for the organization commensurate with the taxes owed on all personal property owned by the Spinners and assessed by the city.

At a meeting of the Civic Stadium Commission on June 4<sup>th</sup>, 2019, the Commission members unanimously approved the enclosed lease. Please let me know if there are any questions.

Sincerely,

Eileen M. Donoghue  
City Manager

Cc: Members of the City of Lowell Civic Stadium Commission  
Conor Baldwin, Chief Financial Officer